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Attorneys for Defendants SECURITY CHECK, LLC; HALL & ASSOCIATES; AND EDWARD R. HALL

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION**

DAVID KEYES, on Behalf of Himself and All  
Others Similarly Situated,

Plaintiff,

v.

SECURITY CHECK, LLC; HALL &  
ASSOCIATES, P.L.L.C.; EDWARD R. HALL; and  
STEVEN B. ROTHSCHILD,

Defendants.

Civil Action No.: C07-03598 JL

**DEFENDANTS SECURITY CHECK,  
LLC, HALL & ASSOCIATES AND  
EDWARD R. HALL'S ANSWER TO  
PLAINTIFF'S COMPLAINT**

Defendants SECURITY CHECK, LLC; HALL & ASSOCIATES; EDWARD R. HALL hereby  
respond to plaintiff's complaint.

1. As to paragraph one, Defendants admit the Court has jurisdiction pursuant to 15 U.S.C.  
§ 1692k. Defendants lack sufficient information or belief to enable them to admit or deny the  
remaining allegations, and on that basis, deny all allegations therein

2. As to paragraph two, Defendants lack sufficient information or belief to enable them to  
admit or deny the remaining allegations, and on that basis, deny all allegations therein.

3. As to paragraph three, Defendants lack sufficient information or belief to enable them to  
admit or deny these allegations, and on that basis, deny all allegations therein.

1           4.       As to paragraph four, Defendants lack sufficient information or belief to enable them to  
2 admit or deny the allegations because Plaintiff's beliefs are not known by Defendants, and on that  
3 basis, deny all allegations therein.

4           5.       As to paragraph five, Defendants lack sufficient information or belief to enable them to  
5 admit or deny the allegations because Plaintiff's beliefs are not known by Defendants, and on that  
6 basis, deny all allegations therein.

7           6.       As to paragraph six, Edward R. Hall and Steven B. Rothschild are individuals and  
8 attorneys. Defendants lack sufficient information or belief to enable them to admit or deny the  
9 remaining allegations, and on that basis, deny all allegations therein.

10          7.       As to paragraph seven, Defendants lack sufficient information or belief to enable them  
11 to admit or deny the remaining allegations, and on that basis, deny all allegations therein.

12          8.       As to paragraph eight, Defendants admit that a check was dishonored by Mr. Keyes'  
13 bank.

14          9.       As to paragraph nine, Defendants admit this allegation.

15          10.      As to paragraph ten, Defendants admit this allegation.

16          11.      As to paragraph eleven, Defendants are informed and believe that the allegation is true,  
17 and on that basis admit the allegation.

18          12.      As to paragraph twelve, Defendants deny these allegations.

19          13.      As to paragraph thirteen, Defendants deny these allegations.

20          14.      As to paragraph fourteen, Defendants deny these allegations.

21          15.      As to paragraph fifteen, Defendants deny these allegations.

22          16.      As to paragraph sixteen, Defendants deny these allegations.

23          17.      As to paragraph seventeen, Defendants deny these allegations.

24          18.      As to paragraph eighteen, Defendants deny these allegations.

25          19.      As to paragraph nineteen, Defendants deny these allegations.

26          20.      As to paragraph twenty, Defendants deny these allegations.

27          21.      As to paragraph twenty-one, Defendants deny these allegations.

22. As to paragraph twenty-two, Defendants deny these allegations.

23. As to paragraph twenty-three, Defendants deny these allegations.

24. As to paragraph twenty-four, Defendants deny these allegations.

25. As to paragraph twenty-five, Defendants deny these allegations.

26. As to paragraph twenty-six, Defendants deny these allegations.

27. As to paragraph twenty-seven, Defendants lack sufficient information or belief to enable them to admit or deny these allegations, and on that basis, deny all allegations therein.

28. As to paragraph twenty-eight, Defendants lack sufficient information or belief to enable them to admit or deny these allegations, and on that basis, deny all allegations therein.

29. As to paragraph twenty-nine, Defendants admit that a check was dishonored and in default. Defendants lack sufficient information or belief to enable them to admit or deny these allegations, and on that basis, deny all allegations therein.

30. As to paragraph thirty, Defendants deny these allegations.

31. As to paragraph thirty-one, Defendants deny these allegations.

32. As to paragraph thirty-two, Defendants deny these allegations.

33. As to paragraph thirty-three, Defendants deny these allegations.

34. As to paragraph thirty-four, Defendants deny these allegations.

35. As to paragraph thirty-five, Defendants deny these allegations.

Pursuant to **Federal Rule of Civil Procedure 8(c)**, Defendants set forth the following matter constituting an avoidance or affirmative defense:

**FIRST AFFIRMATIVE DEFENSE**

38. Plaintiff's Complaint (and the causes of action alleged therein) fails to state facts sufficient to constitute a cause of action as to these answering Defendants.

**SECOND AFFIRMATIVE DEFENSE**

39. Defendants are informed and believe and thereon alleges that the Complaint, and each cause of action therein, is barred in whole or part, by the applicable 1 year jurisdictional statute of limitations period of **15 U.S.C. § 1692k(d)** (FDCPA).

**THIRD AFFIRMATIVE DEFENSE**

40. Defendants are informed and believe and thereon allege that Plaintiff was negligent, careless, and/or committed intentional acts, in and about the matters alleged in the Complaint, and to the extent said negligence, carelessness and/or intentional acts caused and/or contributed to his injuries and/or damages.

**FOURTH AFFIRMATIVE DEFENSE**

41. Defendants are informed and believe and thereon allege that Plaintiff failed and neglected to use reasonable care to protect himself and to minimize and/or mitigate the losses and/or damages asserted in the Complaint.

**FIFTH AFFIRMATIVE DEFENSE**

42. Defendants allege that all its actions were taken in good faith and with a reasonable belief that such actions were lawful.

**SIXTH AFFIRMATIVE DEFENSE**

43. Defendants allege that Plaintiff's Complaint, and the causes of action alleged therein, is barred because the amount Defendants sought to collect for the check involved in this lawsuit was expressly authorized by the agreement creating the debt.

**SEVENTH AFFIRMATIVE DEFENSE**

44. Defendants are informed and believe and thereon allege that it has no civil liability under the FDCPA, 15 U.S.C. § 1692, *et seq.*, pursuant to 15 U.S.C. § 1692k(c), as any violation was unintentional and resulted from the maintenance of procedures reasonably adopted to avoid any such violation.

**EIGHTH AFFIRMATIVE DEFENSE**

45. Defendants allege that any representations or statements alleged to have been made by Defendants were true, accurate at the time made, and/or otherwise were made in good faith and with a reasonable belief as to their validity and accuracy.

**NINTH AFFIRMATIVE DEFENSE**

46. Defendants allege that it acted lawfully and intended to take any and all action

1 contemplated, whether expressly allowed by contract or permitted by law, as represented to Plaintiff.

2 **TENTH AFFIRMATIVE DEFENSE**

3 47. Defendants allege that the amounts (including any interest, fee, charge, or expense  
4 incidental to the obligation) stated on the collection letters sent to Plaintiff were actually owed.

5 **ELEVENTH AFFIRMATIVE DEFENSE**

6 48. Plaintiff is barred from recovery because the Complaint (and the causes of action  
7 alleged therein) is barred by the Doctrine of Unclean Hands.

8 **TWELFTH AFFIRMATIVE DEFENSE**

9 49. Plaintiff's Complaint (and the causes of action alleged therein) is barred by the Doctrine  
10 of Waiver.

11 **THIRTEENTH AFFIRMATIVE DEFENSE**

12 50. Defendants allege that Plaintiff's Complaint (and the causes of action alleged therein) is  
13 barred because each of Plaintiff's claims is subject to the litigation privilege arising under federal  
14 common law.

15 **FOURTEENTH AFFIRMATIVE DEFENSE**

16 51. Defendants allege that Plaintiff's Complaint (and the causes of action alleged therein) is  
17 barred because each of Plaintiff's claims is subject to the interested person privilege arising under  
18 federal common law.

19 **FIFTHTEENTH AFFIRMATIVE DEFENSE**

20 52. Defendant alleges that Plaintiff's Complaint (and the causes of action alleged therein) is  
21 subject to set-off.

22 **SIXTEENTH AFFIRMATIVE DEFENSE**

23 53. Defendant is informed and believes and thereon alleges that all alleged intentional acts or  
24 misrepresentations alleged in Plaintiff's Complaint, and the causes of action alleged therein, were  
25 consented to by the Plaintiff.

26 **SEVENTEENTH AFFIRMATIVE DEFENSE.**

27 54. Defendants allege that Plaintiff's Complaint, and the causes of action for violation of the  
28

1 FDCPA alleged therein, is barred by the Noerr-Pennington doctrine.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

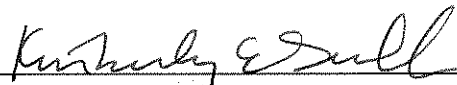
3 55. Defendants hereby alleges the following affirmative defenses, including, but not limited  
4 to, those set forth in **Federal Rule of Civil Procedure 8(c)**, so as not to waive them at this time:  
5 assumption of risk, duress, failure of consideration, fraud, illegality, license, res judicata, failure to join  
6 an indispensable party, and abatement.

7 **WHEREFORE**, Defendants prays for:

- 8 1. That Plaintiff, and each of them, take nothing by way of this action;  
9 2. That Plaintiff's Complaint be dismissed;  
10 3. That Defendants be awarded reasonable attorneys' fees and costs incurred in defending this  
11 action; and  
12 4. For such other and further relief as this Court deems just and proper.

13 Dated: September 14, 2007

14 Ellis, Coleman, Poirier, LaVoie, & Steinheimer LLP

15  
16  
17 By   
18 Kimberly E. Lewellen  
19 Attorneys for Defendants  
20 SECURITY CHECK, LLC; HALL & ASSOCIATES;  
21 AND EDWARD R. HALL  
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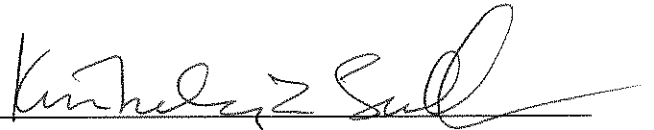
**DEMAND FOR JURY TRIAL**

Defendants SECURITY CHECK, LLC; HALL & ASSOCIATES; AND EDWARD R. HALL  
hereby demand a jury trial in this matter.

Dated: September 14, 2007

ELLIS, COLEMAN, POIRIER, LAVOIE, &  
STEINHEIMER LLP

By



Kimberly E. Lewellen

Attorneys for Defendants

SECURITY CHECK, LLC; HALL & ASSOCIATES;  
EDWARD R. HALL